

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

NATIONAL GRID COMMUNICATIONS,
INC.,

Plaintiff,

v.

THE TOWN OF LENOX AND LENOX
ZONING BOARD OF APPEALS,

Defendants.

Civil Action No. 3:05 cv 30131 MAP

**LENOX MEADOWS, LLC'S MOTION
FOR LEAVE TO INTERVENE AS A DEFENDANT**

Lenox Meadows, LLC ("Lenox Meadows") owns approximately 35 acres of land in Lenox, Massachusetts which directly abuts the property on which the Plaintiff, National Grid Communications, Inc. ("National Grid") proposes to construct a 120 or 130 foot telecommunication tower. Currently, the Lenox Meadows' property is the site of a single family home which is a residence for Mr. and Mrs. Andrew Goldfarb and their family ("the Goldfarbs").

Approximately three weeks ago, Lenox Meadows learned that the Town of Lenox and the Lenox Zoning Board of Appeals might cease defending this case and assent to a form of Judgment allowing National Grid to construct a 130-foot monopole telecommunications tower on the land belonging to Murray and Karel Rose, which is located next to the Lenox Meadows property.

Based upon various filings submitted by National Grid, it appears that National Grid intends to access the Roses' property over an easement which crosses Lenox Meadows' property.

By virtue of its proximity to the proposed tower and the potential for access to the tower over Lenox Meadows' property, Lenox Meadows has an interest in this litigation which is not being adequately defended by the Town of Lenox. And, Lenox Meadows' interest will be completely undefended should National Grid file the planned Agreement of Judgment, by which the Town would cease defending the case and the 130-foot monopole would be permitted.

In its Memorandum of Law accompanying this motion, Lenox Meadows outlines the legal basis for its intervention under Fed. R. Civ. P. Rule 24.

WHEREFORE, Lenox Meadows respectfully requests that the Court allow their Motion to Intervene as a Defendant in this proceeding.

Respectfully submitted,

Lenox Meadows, LLC

By its attorneys,

/s/ Sheryl A. Koval

Anthony M. Feeherry (BBO # 160860)

Sheryl A. Koval (BBO # 657735)

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Dated: September 12, 2006

LOCAL RULE 7.1(A)(2) CERTIFICATION
AND CERTIFICATE OF SERVICE

I, Sheryl A. Koval, hereby certify that counsel for Lenox Meadows, LLC has conferred with Plaintiff's counsel and Defendants' counsel in an attempt to seek their assent to this motion, and counsel for Plaintiff has not assented to the relief sought herein, while counsel for Defendants has assented to the relief sought herein.

I further certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on September 12, 2006.

/s/ Sheryl A. Koval

Sheryl A. Koval